



# MARYLAND DEPARTMENT OF NATURAL RESOURCES

## Recreational Penalties Presentation



Sarah Widman  
Director of Fisheries Policy  
and Planning  
October 18, 2011



## Timeline for Current Recreational Penalty Schedule:

- 2008 – Task Force on Fisheries Management issues report which addresses recreational penalties
- 2009 – Bill passed which streamlined nontidal and tidal recreational penalty authority
- 2009-2010 – Penalty Workgroup and DNR staff hold meetings on penalty system/ final draft
- 2010 – May Public Scoping Meeting
- 2010 – April and July SFAC/TFAC meetings – system discussed
- 2010 – December – system proposed
- 2011- January – public hearing (and media outreach)
- 2011 – March – system goes into effect
- 2011 – August – first batch of suspensions proposed



# MARYLAND DEPARTMENT OF NATURAL RESOURCES

## Recreational Penalties Presentation

### DNR Process for Penalties

- 1) NRP gives a citation and that citation is sent to Fisheries Service
- 2) Individual pays citation or goes to court and is found guilty or not guilty
- 3) Fisheries Service tracks those citations to assess which have resulted in a guilty verdict
- 4) Fisheries Service and AG meet once a week to look over received citations, discuss suspensions, and discuss requested hearings
- 5) A proposed suspension letter is sent to each individual with a guilty for a violation listed on the suspension schedule
- 6) Individual has 30 days to request a hearing from the date of the letter
- 7) 45 days after sending the letter, Staff discuss hearing requests (mitigating circumstances are considered) and sends final suspension orders for those not requesting a hearing
- 8) Based on mitigating circumstances DNR may offer a consent agreement for a decreased penalty
- 9) If an agreement cannot be reached, an administrative hearing is held and an Administrative Law Judge (ALJ) from the Office of Administrative Hearings (OAH) makes a final decision



## Mitigating Circumstances Considered in System Creation

- Past Offenses
- Were there unusual circumstances
- Was the person knowingly violating
- Was the offense egregious
  - How many fish were illegal
  - How far into a prohibited area
  - How long into a closed season or time
  - How much illegal gear was used



# MARYLAND DEPARTMENT OF NATURAL RESOURCES

## Recreational Penalties Presentation

### Questions:

- 1) Should each offender's past violation history be considered prior to sending an initial proposed suspension or should it be considered as a mitigating circumstance? If so, how far back should DNR go when checking them?
- 2) Should all natural resource violations be considered or just fishing violations?
- 3) Should a suspension begin immediately or at the start of a season that the violation pertains to?
- 4) Should DNR release information pertaining to every suspension? What information should be released and how should it be released (website, press release, etc)?



# MARYLAND DEPARTMENT OF NATURAL RESOURCES

## Recreational Penalties Presentation

### Past Violation History- Time Required to Obtain

- DNR tracks individual's violation history by using the on-line Maryland Judiciary Search System (MJSS)
- The amount of time it takes to look up an individual's violation history varies because:
  - Number of past violations
  - How MJSS has entered them (some say criminal but if you click on them they are natural resource violations)
  - How far back we want to check
  - Do we only want to consider guilty violations (each violation must be opened to determine the disposition)
- Staff estimates that for a 5 year check of each individual it will take ~ 30 minutes each (at maximum volume during the summer that would be ~45 individuals to check if we only check those that received a guilty on their current citation) which equals about ~ 6 hours a week devoted to checking these.
- Current process of researching past violations for only those individuals that respond to a letter of proposed suspension is:
  - DNR receives request for a hearing or concern with the proposed suspension
  - DNR reviews all mitigating circumstances including past violations
  - DNR assesses whether circumstances warrant a consent agreement or issues should be heard by an administrative law judge at a hearing



## DNR Seeks SFAC Input on Following:

- 1) Should each offender's past violation history be considered prior to sending an initial proposed suspension or should it be considered as a mitigating circumstance? If so, how far back should DNR go when checking them?
- 2) Should all natural resource violations be considered or just fishing violations?
- 3) Should a suspension begin immediately or at the start of a season that the violation pertains to?
- 4) Should DNR release information pertaining to every suspension? What information should be released and how should it be released (website, press release, etc)?